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4 UNITED STATES DISTRICT COURT  
5 WESTERN DISTRICT OF WASHINGTON  
6 AT TACOMA

7 NICHOLAS LOUIS NOTARO,  
8  
9 v. Petitioner,  
10 DEPARTMENT OF CORRECTIONS,  
11 Respondent.

CASE NO. C19-5531 BHS  
ORDER DECLINING TO ADOPT  
REPORT AND  
RECOMMENDATION AS MOOT  
AND DISMISSING CASE

12 This matter comes before the Court on the Report and Recommendation (“R&R”)  
13 of the Honorable J. Richard Creatura, United States Magistrate Judge. Dkt. 4. On June  
14 10, 2019, Petitioner Nicholas Notaro (“Petitioner”) filed a proposed federal habeas  
15 petition pursuant to 28 U.S.C. § 2254. Dkts. 1, 1-1. On July 23, 2019, Judge Creatura  
16 ordered Petitioner to submit a complete petition and pay the filing fee or submit the  
17 proper form to proceed *in forma pauperis* by August 23, 2019. Dkt. 3. On September 10,  
18 2019, Judge Creatura issued the instant R&R recommending dismissal because Petitioner  
19 failed to respond. Dkt. 4.

20 The R&R was served on Petitioner’s address of record at Stafford Creek  
21 Corrections Center, but on September 10, 2019, his mail was returned to the Court as  
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1 undeliverable. Dkt. 5. The docket entry corresponding to this event states that “[p]er staff  
2 at Stafford Creek, [Petitioner] passed away 7/28/2019.” *Id.*

3 Petitioner’s death mooted his federal habeas petition. *See Garceau v. Woodford*,  
4 399 F.3d 1101 (9th Cir. 2005) (“Because petitioner’s death renders this case moot, the  
5 petition for writ of habeas corpus should be dismissed as moot.”); *see also Dove v.*  
6 *United States*, 423 U.S. 325 (1976) (dismissing a certiorari petition because petitioner  
7 had died); *Griffey v. Lindsey*, 349 F.3d 1157 (9th Cir. 2003) (dismissing a petition for  
8 writ of habeas corpus as moot because petitioner had died). Therefore, the Court having  
9 considered the R&R, the remaining record, and the docket for this case does hereby find  
10 and order as follows:

- 11 (1) The R&R is **DECLINED as moot**;
- 12 (2) Petitioner’s federal habeas petition, Dkt. 1-1, is **DISMISSED**; and
- 13 (3) The Clerk shall close this case.

14 **IT IS SO ORDERED.**

15 Dated this 1st day of October, 2019.

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18 BENJAMIN H. SETTLE  
19 United States District Judge  
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